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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/228,109 | 01/11/1999 | MARTIN BRADY | 0166 | 7301 |

7590 09/27/2002

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EXAMINER

SHOAP, ALLAN N

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|--|----------------------------|--|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/228,109 | BRADY, MARTIN | |
| | Examiner Allan N. Shoap | Art Unit 3724 | |
| -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- | | | |
| Period for Reply | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. | | | |
| <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | |
| Status | | | |
| 1) <input type="checkbox"/> Responsive to communication(s) filed on ____. 2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final. 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. | | | |
| Disposition of Claims | | | |
| 4) <input checked="" type="checkbox"/> Claim(s) <u>10-13</u> is/are pending in the application. 4a) Of the above claim(s) ____ is/are withdrawn from consideration. 5) <input type="checkbox"/> Claim(s) ____ is/are allowed. 6) <input checked="" type="checkbox"/> Claim(s) <u>10-13</u> is/are rejected. 7) <input type="checkbox"/> Claim(s) ____ is/are objected to. 8) <input type="checkbox"/> Claim(s) ____ are subject to restriction and/or election requirement. | | | |
| Application Papers | | | |
| 9) <input type="checkbox"/> The specification is objected to by the Examiner. 10) <input type="checkbox"/> The drawing(s) filed on ____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) <input type="checkbox"/> The proposed drawing correction filed on ____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. | | | |
| Priority under 35 U.S.C. §§ 119 and 120 | | | |
| 13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. ____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | |
| 14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received. 15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. | | | |
| Attachment(s) | | | |
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____. | |

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1. Prosecution is reopened in view of additional prior art that has come to the attention of the examiner and the resulting new grounds of rejection set forth below.

DETAILED ACTION

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the PRESTO CAN OPENER PLUS (previously cited and, hereafter, to be called Presto) in view of Davies (4,152,831) and Nielsen et al (5,791,608). Presto teaches an electric can opener having substantially everything claimed - including a jar opener mounted on the bottom wall of the can opener. See page 8 of the instructions in Presto for the jar opener. Presto does not teach a scissors releasably retained to the can opener such as by a sheath. However, Davies teaches that a scissors-like tool, which one of ordinary skill in the art can call a scissors, may be attached to any surface where it is convenient via a sheath in which the sheath allows access to the scissors. See col. 2, lines 26 – 30, and see col. 3, lines 30 –31 in Davies. Nielsen et al teaches that a scissors may be secured via a sheath to a home appliance such as a machine in the form of a sewing machine, a refrigerator, or a washer or a dryer. See col. 2, lines 26 – 34 in Nielsen et al. The Presto can opener presents convenient surfaces such as its

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sides and top and is clearly a home appliance that can be defined as a machine. Therefore, to provide a scissors removably retained to the can opener in Presto via a sheath is suggestive from Davies since the can opener presents conavailable, convenient surfaces. This is further made obvious by Nielsen et al for teaching that it would have been obvious to provide a sheathed scissors on any convenient surface where it may be desired for use and wherein that surface is a machine in the form of a home appliance. Thus, clearly, the collective teachings of Davies and Nielsen et al teach that it would have been obvious to provide a scissors, and a sheath for the scissors, on any available surface of an appliance where such scissors and sheath might be deemed useful or is considered a desirable location for the use of the scissors and sheath. Since the Presto can opener is an appliance with available space, it would have been obvious to place a scissors and sheath on the can opener if one so desired.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hofer and Norbits show other holders for scissors placeable anywhere; Hubrich and Bielak et al show can openers with magnets lid holders, sidewalls, and blade sharpeners; Ridler shows a peeler that can be removably retained on a can opener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Shoap whose telephone number is 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

anmsy

ALLAN N. SHOAP
SUPERVISORY PATENT EXAMINER
ART UNIT 3727
703-308-1082

September 9, 2002

E. Rollins-Cross

E. ROLLINS-CROSS
GROUP DIRECTOR
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